




State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

Appendix B

LRB BILL HISTORY RESEARCH APPENDIX

 The drafting file for 2011 LRB-0820 (For: DOA)

has been copied/added to the drafting file for


2011 LRB-0991 (For: Senator Fitzgerald)

 Are These "Companion Bills" ?? ... No



RESEARCH APPENDIX - **PLEASE KEEP WITH THE DRAFTING FILE**

Date Transfer Requested: 01/21/2011 (Per: MGG & CMH)

 The attached 2009 draft was incorporated into the new 2009 draft listed above. For research purposes, this cover sheet and the attached drafting file were copied, and added, as a appendix, to the new 2009 drafting file. If introduced this section will be scanned and added, as a separate appendix, to the electronic drafting file folder.



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

RESEARCH APPENDIX - **PLEASE DO NOT REMOVE FROM DRAFTING FILE**

Date Transfer Requested: 12/29/2010 (Per: CMH)

A ☞ The 2011 drafting file for
LRB-0613

C ☞ The 2011 drafting file for
LRB-0615

B ☞ The 2011 drafting file for
LRB-0614

D ☞ The 2011 drafting file for
LRB-0616

☞ Compile Draft – Appendix A

has been copied/added to the drafting file for

2011 LRB-0820
(Jr1 Special Session Draft)

2011 Jr1 DRAFTING REQUEST

Bill

Received: **12/01/2010**

Received By: **gmalaise**

Wanted: **Today**

Companion to LRB:

For: **Administration**

By/Representing: **Kevin Moore**

May Contact:

Drafter: **gmalaise**

Subject: **Administrative Law**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **kevin.moore@wisconsin.gov**

Carbon copy (CC:) to: **david.schmiedicke@wisconsin.gov**
jennifer.kraus@wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Agency rule-making authority

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 12/02/2010	nnatzke 12/02/2010		_____			
/1			phenry 12/03/2010	_____	cduerst 12/03/2010		
/2	gmalaise 12/20/2010	nnatzke 12/20/2010	jfrantze 12/20/2010	_____	cduerst 12/20/2010		
/3	gmalaise	nnatzke	rschluet	_____	sbasford		

LRB-0613

12/21/2010 01:48:37 PM

Page 2

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	12/21/2010	12/21/2010	12/21/2010	_____	12/21/2010		

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 12/01/2010

Received By: **gmalaise**

Wanted: **Today**

Companion to LRB:

For: **Administration**

By/Representing: **Kevin Moore**

May Contact:

Drafter: **gmalaise**

Subject: **Administrative Law**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **kevin.moore@wisconsin.gov**

Carbon copy (CC:) to: **david.schmiedicke@wisconsin.gov**
jennifer.kraus@wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Agency rule-making authority

Instructions:

See attached

Drafting History:

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/?	gmalaise 12/02/2010	nnatzke 12/02/2010					
/1			phenry 12/03/2010		cduerst 12/03/2010		
/2	gmalaise 12/20/2010	nnatzke 12/20/2010	jfrantze 12/20/2010		cduerst 12/20/2010		

Handwritten signatures and dates:
12/20/2010
12/21

LRB-0613

12/20/2010 03:22:07 PM

Page 2

FE Sent For:

<END>

2011 DRAFTING REQUEST

Bill

Received: 12/01/2010

Received By: **gmalaise**

Wanted: Today

Companion to LRB:

For: Administration

By/Representing: **Kevin Moore**

May Contact:

Drafter: **gmalaise**

Subject: **Administrative Law**

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: **kevin.moore@wisconsin.gov**

Carbon copy (CC:) to: **david.schmiedicke@wisconsin.gov**
jennifer.kraus@wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Agency rule-making authority

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	gmalaise 12/02/2010	nnatzke 12/02/2010					
/1		1/2 ^{nwn} 12/20	phenry 12/03/2010		cduerst 12/03/2010		
FE Sent For:			12/20	pk 12/20			

12/20 <END>

2011 DRAFTING REQUEST

Bill

Received: 12/01/2010

Received By: **gmalaise**

Wanted: **Today**

Companion to LRB:

For: **Governor-elect 261-9184**

By/Representing: **Kevin Moore**

May Contact:

Drafter: **gmalaise**

Subject: **Administrative Law**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **kevin.moore@wisconsin.gov**

Carbon copy (CC:) to: **David.Schmiedicke@wisconsin.gov, jennifer.kraus@wi.gov.**
David.Schmiedicke@wisconsin.gov jennifer.kraus@wisconsin.gov

Pre Topic:

No specific pre topic given

Topic:

Agency rule-making authority

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
1?	gmalaise	1/1 nwn 12/2	12/4 PH	12/4 PH			

FE Sent For:

<END>

Malaise, Gordon

From: Moore, Kevin E - GOT [Kevin.Moore@wisconsin.gov]
Sent: Monday, November 29, 2010 1:37 PM
To: Malaise, Gordon
Cc: Champagne, Rick
Subject: Drafting Request 1 of 4
Food Afternoon Gordon-

There are a number of provisions related to administrative rules that we would like drafted. This is one of four. There may be more coming later today.

The Governor-Elect would like the following provisions drafted as a bill:

Item #1: Agency Rulemaking Clarification

Statutory Language

227.11 of the statutes is amended to read:

227.11 Extent to which chapter confers rule-making authority.

(2) Rule-making authority is expressly conferred as follows:

(a) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if it exceeds the bounds of the correct interpretation.

1. A statutory provision describing an agency's declaration of statement , statement of

purpose, or statement of policy does not grant the agency broad regulatory authority to

promulgate a rule beyond the rule-making authority expressly conferred by the legislature.

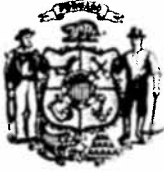
2. A statutory provision describing an agency's general duties or general powers does not grant the agency broad regulatory authority to promulgate a rule beyond the rule-making authority expressly conferred by the legislature.

3. If the legislature enacts statutory language that contains specific regulatory standards or thresholds, an agency does not have the authority to promulgate, enforce, or administer a rule that is more restrictive than the statutory language.

12/1/2010

Kevin Moore
Policy Director
Office of Governor-Elect Scott Walker
608-261-9184
kevin.moore@wisconsin.gov
www.walkertransition.wi.gov





State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-0613/1
GMM.....
nwn

In 11/2
Friday

SA ✓
x-ref ✓

- 1 ^{Gen.} AN ACT ...; relating to: the authority of a state agency to promulgate rules
2 interpreting the provisions of a statute enforced or administered by the agency. ✓

Analysis by the Legislative Reference Bureau

Under current law, a state agency (agency) may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, except that a rule is not valid if the rule exceeds the bounds of correct interpretation. ✓

This bill provides that all of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature. ✓

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature. ✓

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision. ✓

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 227.11 (2) (a) of the statutes is renumbered 227.11 (2) (a) (intro.) and
2 amended to read:

3 227.11 (2) (a) ^(intro.) Each agency may promulgate rules interpreting the provisions
4 of any statute enforced or administered by it the agency, if the agency considers it
5 necessary to effectuate the purpose of the statute, but a rule is not valid if it the rule
6 exceeds the bounds of correct interpretation. All of the following apply to the
7 promulgation of a rule interpreting the provisions of a statute enforced or
8 administered by an agency:

9 History: 1985 a. 182; 1991 a. 209.

10 SECTION 2. 227.11 (2) (a) 1. to 3. of the statutes are created to read:

11 227.11 (2) (a) 1. A statutory or nonstatutory provision containing a statement
12 or declaration of legislative intent, purpose, findings, or policy does not confer
13 rule-making authority on the agency or augment the agency's rule-making
14 authority beyond the rule-making authority that is expressly conferred on the
15 agency by the legislature.

16 2. A statutory provision describing the agency's general powers or duties does
17 not confer rule-making authority on the agency or augment the agency's
18 rule-making authority beyond the rule-making authority that is expressly
19 conferred on the agency by the legislature.

20 3. A statutory provision containing a specific standard, requirement, or
21 threshold does not confer on the agency the authority to promulgate, enforce, or
22 administer a rule that contains a standard, requirement, or threshold that is more
23 restrictive than the standard, requirement, or threshold contained in the statutory
24 provision.

SECTION 9355. Initial applicability; Other.

1 (1) RULE-MAKING AUTHORITY; RULES INTERPRETING STATUTES. The renumbering
2 and amendment of section 227.11 (2) (a) of the statutes and the creation of section
3 227.11 (2) (a) 1. to 3. of the statutes first apply to a proposed administrative rule
4 submitted to the legislative council staff under section 227.15 of the statutes on the
5 effective date of this subsection.

6 (END)

Malaise, Gordon

From: Steinmetz, Jana D - DOA [Jana.Steinmetz@Wisconsin.gov]
Sent: Monday, December 20, 2010 7:41 AM
To: Malaise, Gordon
Subject: drafting

Gordon,

Please add the following language to the rule authority legislation (LRB 0613):

227.10(2m) of the statutes is created to read:

(2m) No agency may implement or enforce ^{a rule specifying} ~~a regulation, standard, statement of policy or general order of general application that has the effect of law,~~ ^{rule} ^{the rule} including conditions for permit approvals, unless it has been promulgated in accordance with this subchapter. ^{amend}

Please call with any questions.

Thanks,
Jana

12/20/2010



State of Wisconsin
2011-2012 LEGISLATURE



LRB-0613/f
GMM:nwn:ph

2011 BILL

and to implement or enforce a rule
promulgated
promulgated by the state agency ✓

- 1 AN ACT *to renumber and amend* 227.11 (2) (a); and *to create* 227.11 (2) (a) 1.
2 to 3. of the statutes; **relating to:** the authority of a state agency to promulgate
3 rules interpreting the provisions of a statute enforced or administered by the
4 agency.

Renumber to

Analysis by the Legislative Reference Bureau

Under current law, a state agency (agency) may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, except that a rule is not valid if the rule exceeds the bounds of correct interpretation.

This bill provides that all of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more

BILL

issuing
This bill also prohibits an agency from implementing or enforcing a rule, including a rule specifying the conditions for ~~approval~~ *approval* of a ~~statutory~~ *statutory* license, unless the rule has been promulgated in accordance with statutory rule-making procedures.
restrictive than the standard, requirement, or threshold contained in the statutory provision.

Insert
2-1

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 SECTION 1. 227.11 (2) (a) of the statutes is renumbered 227.11 (2) (a) (intro.) and
2 amended to read:

3 227.11 (2) (a) (intro.) Each agency may promulgate rules interpreting the
4 provisions of any statute enforced or administered by it the agency, if the agency
5 considers it necessary to effectuate the purpose of the statute, but a rule is not valid
6 if it the rule exceeds the bounds of correct interpretation. All of the following apply
7 to the promulgation of a rule interpreting the provisions of a statute enforced or
8 administered by an agency:

9 SECTION 2. 227.11 (2) (a) 1. to 3. of the statutes are created to read:

10 227.11 (2) (a) 1. A statutory or nonstatutory provision containing a statement
11 or declaration of legislative intent, purpose, findings, or policy does not confer
12 rule-making authority on the agency or augment the agency's rule-making
13 authority beyond the rule-making authority that is expressly conferred on the
14 agency by the legislature.

15 2. A statutory provision describing the agency's general powers or duties does
16 not confer rule-making authority on the agency or augment the agency's
17 rule-making authority beyond the rule-making authority that is expressly
18 conferred on the agency by the legislature.

19 3. A statutory provision containing a specific standard, requirement, or
20 threshold does not confer on the agency the authority to promulgate, enforce, or
21 administer a rule that contains a standard, requirement, or threshold that is more

BILL

1 restrictive than the standard, requirement, or threshold contained in the statutory
2 provision.

3 **SECTION 9355. Initial applicability; Other.**

4 (1) RULE-MAKING AUTHORITY; RULES INTERPRETING STATUTES. The renumbering
5 and amendment of section 227.11 (2) (a) of the statutes and the creation of section
6 227.11 (2) (a) 1. to 3. of the statutes first apply to a proposed administrative rule
7 submitted to the legislative council staff under section 227.15 of the statutes on the
8 effective date of this subsection.

9 (END)

D-note

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Insert 2-1

SEC 227.10 (2m)

227.10 (2m) ^(B) No agency may ~~is~~ implement or
specifying the
enforce a rule, including a rule specifying the conditions
for ^{issuing} ~~issuing~~ a license, unless the rule has been
promulgated in accordance with this subchapter. ✓

(end of insert)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

LRB-0613/2dn

GMM:pmw

D Note
Date

Summary:

Regulation, [✓] standard, [✓] statement [✓] statements of policy and
general orders [✓] all [✓] come within the definition of "rule" in s.

227.01 (13). Similarly, [✓] permit [✓] comes within the definition of

"license" [✓] in s. 227.01 (5). Accordingly, [✓] this redraft
uses

uses the defined terms "rule" and "license" in s. 227.10 (2m), [✓]

as created by the ~~old~~ redraft. [✓]

GMM

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0613/2dn
GMM:nwn:jf

December 20, 2010

Jana:

Regulations, standards, statements of policy, and general orders all come within the definition of "rule" in s. 227.01 (13). Similarly, permit comes within the definition of "license" in s. 227.01 (5). Accordingly, this redraft uses the defined terms "rule" and "license" in s. 227.10 (2m), as created by the redraft.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov

Malaise, Gordon

From: Steinmetz, Jana D - DOA [Jana.Steinmetz@Wisconsin.gov]

Sent: Monday, December 20, 2010 8:18 PM

To: Malaise, Gordon

Subject: LRB 0613/2

Gordon,

Here is the language they would like drafted on this bill.

227.10 (2m) No agency may implement or enforce any standard, requirement or threshold as a condition or term of a license unless it is explicitly required by statute or rule duly promulgated under this chapter.

Please let me know if you have any questions or concerns.

Thanks,
Jana

12/21/2010



State of Wisconsin
2011 - 2012 LEGISLATURE

In 12/21

Today

2011 BILL

D-Note



LRB-0613/2
GMM:nwnj

3
RJR

any standard, requirement, or threshold as a
condition
term or condition of a license issued

Reopen

- 1 AN ACT *to remember and amend* 227.11 (2) (a); and *to create* 227.10 (2m) and
2 227.11 (2) (a) 1. to 3. of the statutes; **relating to:** the authority of a state agency
3 to promulgate rules interpreting the provisions of a statute enforced or
4 administered by the agency and to implement or enforce ~~any rule promulgated~~ by
5 the state agency.

Analysis by the Legislative Reference Bureau

Under current law, a state agency (agency) may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, except that a rule is not valid if the rule exceeds the bounds of correct interpretation.

This bill provides that all of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or

BILL

any standard, requirement, or threshold as a term or condition of any license issued by the agency, unless such implementation or enforcement is expressly required by statute or by a rule that

~~administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.~~

The bill also prohibits an agency from implementing or enforcing a rule, including a rule specifying the conditions for issuing a license, unless the rule has been promulgated in accordance with statutory rule-making procedures.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 227.10 (2m) of the statutes is created to read:

227.10 (2m) No agency may implement or enforce a rule, including a rule specifying the conditions for issuing a license, unless the rule has been promulgated in accordance with this subchapter.

SECTION 2. 227.11 (2) (a) of the statutes is renumbered 227.11 (2) (a) (intro.) and amended to read:

227.11 (2) (a) (intro.) Each agency may promulgate rules interpreting the provisions of any statute enforced or administered by it the agency, if the agency considers it necessary to effectuate the purpose of the statute, but a rule is not valid if it the rule exceeds the bounds of correct interpretation. All of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

SECTION 3. 227.11 (2) (a) 1. to 3. of the statutes are created to read:

227.11 (2) (a) 1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

BILL

1 2. A statutory provision describing the agency's general powers or duties does
2 not confer rule-making authority on the agency or augment the agency's
3 rule-making authority beyond the rule-making authority that is expressly
4 conferred on the agency by the legislature.

5 3. A statutory provision containing a specific standard, requirement, or
6 threshold does not confer on the agency the authority to promulgate, enforce, or
7 administer a rule that contains a standard, requirement, or threshold that is more
8 restrictive than the standard, requirement, or threshold contained in the statutory
9 provision.

10 **SECTION 9355. Initial applicability; Other.**

11 (1) RULE-MAKING AUTHORITY; RULES INTERPRETING STATUTES. The renumbering
12 and amendment of section 227.11 (2) (a) of the statutes and the creation of section
13 227.11 (2) (a) 1. to 3. of the statutes first apply to a proposed administrative rule
14 submitted to the legislative council staff under section 227.15 of the statutes on the
15 effective date of this subsection.

16

(END)

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

D Note

Sana:

Statutes are not always mandatory, ^①i.e., "shall"; often
as not they are permissive, ^②i.e., "may." Accordingly, this redraft
prohibits implementation or enforcement of a standard, etc., ~~unless~~
unless expressly required ^③or permitted by statute or rule.

GMM

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0613/3dn
GMM:nwn:rs

December 21, 2010

Jana:

Statutes are not always mandatory, *i.e.* "shall"; often as not they are permissive, *i.e.*, "may." Accordingly, this redraft prohibits implementation or enforcement of a standard, etc., unless expressly required *or permitted* by statute or rule.

Gordon M. Malaise
Senior Legislative Attorney
Phone: (608) 266-9738
E-mail: gordon.malaise@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE
January 2011 Special Session



LRB-0613/3
GMM:nwn:rs

BILL

1 **AN ACT** *to renumber and amend* 227.11 (2) (a); and *to create* 227.10 (2m) and
2 227.11 (2) (a) 1. to 3. of the statutes; **relating to:** the authority of a state agency
3 to promulgate rules interpreting the provisions of a statute enforced or
4 administered by the agency and to implement or enforce any standard,
5 requirement, or threshold as a term or condition of a license issued by the state
6 agency.

Analysis by the Legislative Reference Bureau

Under current law, a state agency (agency) may promulgate rules interpreting the provisions of any statute enforced or administered by the agency, if the agency considers it necessary to effectuate the purpose of the statute, except that a rule is not valid if the rule exceeds the bounds of correct interpretation.

This bill provides that all of the following apply to the promulgation of a rule interpreting the provisions of a statute enforced or administered by an agency:

1. A statutory or nonstatutory provision containing a statement or declaration of legislative intent, purpose, findings, or policy does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

2. A statutory provision describing the agency's general powers or duties does not confer rule-making authority on the agency or augment the agency's rule-making authority beyond the rule-making authority that is expressly conferred on the agency by the legislature.

3. A statutory provision containing a specific standard, requirement, or threshold does not confer on the agency the authority to promulgate, enforce, or administer a rule that contains a standard, requirement, or threshold that is more restrictive than the standard, requirement, or threshold contained in the statutory provision.

The bill also prohibits an agency from implementing or enforcing any standard, requirement, or threshold as a term or condition of any license issued by the agency unless such implementation or enforcement is expressly required or permitted by statute or by a rule that has been promulgated in accordance with statutory rule-making procedures.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 227.10 (2m) of the statutes is created to read:

2 227.10 (2m) No agency may implement or enforce any standard, requirement,
3 or threshold as a term or condition of any license issued by the agency unless such
4 implementation or enforcement is expressly required or permitted by statute or by
5 a rule that has been promulgated in accordance with this subchapter.

6 **SECTION 2.** 227.11 (2) (a) of the statutes is renumbered 227.11 (2) (a) (intro.) and
7 amended to read:

8 227.11 (2) (a) (intro.) Each agency may promulgate rules interpreting the
9 provisions of any statute enforced or administered by it ~~the agency~~, if the agency
10 considers it necessary to effectuate the purpose of the statute, but a rule is not valid
11 if it ~~the rule~~ exceeds the bounds of correct interpretation. All of the following apply
12 to the promulgation of a rule interpreting the provisions of a statute enforced or
13 administered by an agency:

14 **SECTION 3.** 227.11 (2) (a) 1. to 3. of the statutes are created to read:

15 227.11 (2) (a) 1. A statutory or nonstatutory provision containing a statement
16 or declaration of legislative intent, purpose, findings, or policy does not confer
17 rule-making authority on the agency or augment the agency's rule-making

1 authority beyond the rule-making authority that is expressly conferred on the
2 agency by the legislature.

3 2. A statutory provision describing the agency's general powers or duties does
4 not confer rule-making authority on the agency or augment the agency's
5 rule-making authority beyond the rule-making authority that is expressly
6 conferred on the agency by the legislature.

7 3. A statutory provision containing a specific standard, requirement, or
8 threshold does not confer on the agency the authority to promulgate, enforce, or
9 administer a rule that contains a standard, requirement, or threshold that is more
10 restrictive than the standard, requirement, or threshold contained in the statutory
11 provision.

12 **SECTION 9355. Initial applicability; Other.**

13 (1) RULE-MAKING AUTHORITY; RULES INTERPRETING STATUTES. The renumbering
14 and amendment of section 227.11 (2) (a) of the statutes and the creation of section
15 227.11 (2) (a) 1. to 3. of the statutes first apply to a proposed administrative rule
16 submitted to the legislative council staff under section 227.15 of the statutes on the
17 effective date of this subsection.

18 (END)